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Women sit on the sidelines at the Fair Work Commission

Serious questions must be asked of the Fair Work Commission (FWC) after revelations its female presidential members are being inexplicably sidelined from important Full Bench matters.

[Analysis](#) of the national employment tribunal's decisions in 2020 shows female Deputy Presidents of the FWC have presided over just 4% of the 240 Full Bench matters to date, despite comprising more than one-third (35%) of its presidential resources.

Of the FWC's eight female Deputy Presidents, five have not presided over a single Full Bench matter in 2020, whilst the other three have presided over 10 matters between them. Meanwhile one male Deputy President, Val Gostencnik, has presided over 29 Full Bench matters in 2020.

DP Gostencnik, alongside President Ross and Vice Presidents Hatcher and Catanzariti, form what is known as the FWC's 'gang of four' – the four most powerful members of the tribunal who between them have presided over 92% of all Full Bench matters in 2020.

"In addition to the President and two Vice Presidents, the FWC has 20 Deputy Presidents. These Deputy Presidents all earn the same taxpayer-funded salary of \$462,000 and have the same statutory standing to administer the work of the national workplace tribunal," Steve Knott AM, Chief Executive of the Australian Resources and Energy Group (AMMA), said.

"It's incredibly disappointing that female Deputy Presidents, who today comprise 35% of the tribunal's presidential members, have overseen just 4% of Full Bench matters in 2020.

"Meanwhile the 'gang of four' – all men in their late 50s or early 60s and all appointed to the tribunal by the Australian Labor Party more than seven years ago - are making 92% of the important decisions relating to employment practices in this country.

"It is one thing for business and government agencies to work to close the gender gap; it's another to actually utilise the talent once recruited. In 2020 it is simply unacceptable for the FWC's incredible talent pool of women to be effectively sitting on the sidelines."

Other concerning trends identified in AMMA's analysis include:

- Despite comprising 38% of presidential members at the FWC, tribunal members appointed by past ALP governments have presided over a stunning 95% of Full Bench determinations.
- Coalition-appointed members, despite comprising 62% of the tribunal's presidential resources, have overseen just 5% of Full Benches.
- 80% of Full Benches have included ALP-appointed members in the majority (typically two ALP-appointees and one Coalition appointee).
- Only 24% of all available places on FWC Full Bench matters in 2020 have been allocated to tribunal members with a business or employer background. In contrast, tribunal members with trade union backgrounds have filled 49% of available places.

Mr Knott said more balanced utilisation of the FWC's presidential resources would greatly assist in addressing the tribunal's well-documented efficiency issues.

"It's been widely acknowledged the FWC's approval times for enterprise agreements are particularly woeful – often taking many months and sometimes up to 12 months. Equally frustrating for employers and employees are the lengthy timeframes for hearing and determining appeals," he said.

"Having just four of the FWC's 23 presidential-level members controlling virtually all Full Bench matters is clearly a huge contributor to these efficiency problems.

“Given their skills and experience prior to appointment, and the nearly two years since the last intake, all Deputy Presidents should be well capable of presiding over Full Bench matters.

“AMMA will continue to raise these issues with the Australian Government in the interests of a properly balanced and well-functioning national employment tribunal.

“Since coming to government in 2013 the Coalition has worked to appoint new tribunal members with a view to address the underrepresentation of women and the need for greater legal, business and real-world human resources experience in its ranks.

“All this will be for nothing if this diverse talent pool is not allocated any meaningful work at the tribunal.

“We will encourage the Minister for Women and the Workplace Gender Equality Agency to ask serious questions about the FWC’s under-utilisation of its female talent.

“We also continue to call for the Attorney-General and Minister for Industrial Relations to initiate a full-scale review of the tribunal’s structure, resource allocation and performance.”

MEDIA CONTACT: Tom Reid, 0419 153 407, tom.reid@amma.org.au

See the analysis in detail [here](#).

